

REMARKS

This is in response to the Office Action mailed on February 2, 2005, and the references cited therewith.

Claims 21-23 are amended, no claims are canceled, and no claims are added; as a result, claims 1-23 remain pending in this application.

§102 Rejection of the Claims

Claims 1, 2, 4, 12-13, and 15-17 were rejected under 35 USC § 102(b) as being anticipated by Kinstler (U.S. Patent No. 5,005,306). Applicant respectfully traverses the rejection for at least the following reasons.

Regarding claims 1 and 2, the rejection states that Kinstler discloses an illuminated vehicle sign that may be attached to a vehicle, which may be driven on the road. Kinstler appears to show an electroluminescent display “for displaying advertising material or the like at night during low light periods to allow a better visibility of the advertising material” (col. 1, lines 53-55). Kinstler does not show vehicle formations, or using an EL lighting surface to provide guidance for vehicles.

In contrast, independent claims 1 and 2 include driving one or more vehicles in a formation on the road wherein the safety signs are visible to provide guidance for the vehicles. Because Kinstler does not show every element of Applicant's independent claims, a 35 USC § 102(b) rejection is not supported. Reconsideration and withdrawal of the rejection is respectfully requested with respect to Applicant's independent claims 1 and 2. Additionally, reconsideration and withdrawal of the rejection is respectfully requested with respect to claims 3-7 that depend therefrom, as depending on an allowable base claim.

Regarding independent claim 12, the rejection states that “Kinstler discloses an illuminated vehicle sign providing a pattern to convey a visual safety message [Figures 1-4: (33)].” Applicant respectfully traverses the rejection for at least the following reasons.

As stated above, Kinstler appears to show an electroluminescent display “for displaying advertising material or the like at night during low light periods to allow a better visibility of the advertising material” (col. 1, lines 53-55). Fernandez appears to discuss safety in column 5, lines

15-35, however the safety discussion in Fernandez is limited to safety being enhanced when “external portions of an automobile are illuminated so that other drivers, particularly in adjacent lanes, can better see its location and position.” Neither Kinstler nor Fernandez show a pattern selected to convey a **visual safety message**.

In contrast, independent claim 12 includes a pattern selected to convey a visual safety message. Examples of visual safety messages shown in the present application are distinguished over mere illumination by providing a specific safety message such as “Stay Back, Stay Alive” or a recognizable safety symbol such as a slow moving vehicle triangle. Applicant’s attorney can personally attest to the effectiveness of such a visual safety message. In January 2004 on Interstate 35 during a blizzard, I personally witnessed a snowplow embodiment as described in the present application. The safety message (not merely an illumination source) was clear from a large distance in the snow. I could read the safety message “Stay Back, Stay Alive.”

Because no single reference shows every element of Applicant’s independent claims, a 35 USC § 102(b) rejection is not supported. Reconsideration and withdrawal of the rejection is respectfully requested with respect to independent claim 12. Additionally, reconsideration and withdrawal of the rejection is respectfully requested with respect to the remaining claims that depend therefrom, as depending on an allowable base claim.

Claims 22-23 were rejected under 35 USC § 102(b) as being anticipated by Fernandez (U.S. Patent No. 5,434,013). The rejection states that trim apparatus 10 can take the form of splash guards.

Fernandez appears to show splash guards 82 with illuminated external trim. Fernandez also appears to show an illuminated name. However Fernandez does not show splash guards comprising an EL lighting surface, wherein the EL lighting surface includes a visual safety message. Applicant respectfully notes that a name does not convey a safety message. In contrast, claim 22 as amended includes a mud flap, comprising an EL lighting surface, wherein the EL lighting surface includes a visual safety message.

Because Fernandez does not show every element of Applicant’s independent claims, a 35 USC § 102(b) rejection is not supported. Reconsideration and withdrawal of the rejection is respectfully requested with respect to independent claim 22. Additionally, reconsideration and

withdrawal of the rejection is respectfully requested with respect to claim 23, as depending on an allowable base claim.

§103 Rejection of the Claims

Claim 3 was rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Fuller (U.S. Patent No. 2,983,914). Claim 4 was rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Chien (U.S. Patent No. 5,775,016). Claims 6-7 were rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Applicant's admitted prior art. Claim 14 was rejected under 35 USC § 103(a) as being unpatentable over Kinstler. Claims 18-19 were rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Burke (U.S. Patent No. 5,779,346). Claim 20 was rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Applicant's admitted prior art.

Applicant respectfully submits that the additional combinations listed above fail to cure the deficiencies of Kinstler for at least the reasons outlined above under 35 USC § 102(b).

Because the cited references, either alone or in combination, do not show every element of Applicant's independent claims, a 35 USC § 103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection is respectfully requested with respect to claims 3-4, 6-7, 14, 18-19, and 20.

Claims 8-10 were rejected under 35 USC § 103(a) as being unpatentable over Kinstler. Claims 11 and 21 were rejected under 35 USC § 103(a) as being unpatentable over Kinstler in view of Fernandez. Applicant respectfully traverses the rejection for at least the following reasons.

The rejections states that "Kinstler discloses an illuminated vehicle sign providing a pattern to convey a visual safety message [Figures 1-4: (33)]." The rejection further states that "Kinstler does not specifically teach the vehicle being a transportation vehicle that carries an oversize load, so that the sign provides warning of such load to proximate drivers. Such a configuration is an obvious matter of design choice."

As noted above, Applicant respectfully notes that neither Kinstler nor Fernandez show a pattern selected to convey a **visual safety message**. Applicant respectfully traverses the

assertion that such a configuration is a mere matter of design choice. The rejection appears to be asserting impermissible hindsight to form the rejection. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

Because the cited references, either alone or in combination, do not show every element of Applicant's independent claims, a 35 USC § 103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection is respectfully requested with respect to claim 8-11.

Although Applicant submits that claim 14 is already in condition for allowance, as depending from an allowable base claim, Applicant further traverses the rejection from the pending Office Action on page 9, stating that a triangular pattern to convey a safety message is a mere change of form or shape. Applicant respectfully submits that a shape such as a slow moving vehicle triangle conveys a specific safety message, and is not merely a change from one shape to another.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

AARON GOLLE ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6976

Date 4-8-05

By 
David C. Peterson
Reg. No. 47,857

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 15 day of April, 2005.

KACIA LEE

Name

Kacia Lee

Signature